

## RULEMAKING NOTICE FORM

Notice Number 2015-94

Rule Number He-W 530.02, 530.03 & 530.06

1. Agency Name & Address:

**NH Dept. of Health & Human Services  
Office of Medicaid Business and Policy  
129 Pleasant Street  
Concord, NH 03301**

2. RSA Authority:

**RSA 161:4-a, X**

3. Federal Authority:

4. Type of Action:

Adoption

Amendment

Repeal

Readoption

Readoption w/amendment **X**

5. Short Title: **Service Limits, Co-Payments, and Non-Covered Services**

6. (a) Summary of what the rule says and of any proposed amendments:

**He-W 530 describes the limits on services provided under the New Hampshire Medicaid program, the required co-payments for Medicaid services, and services which are not covered by Medicaid, including which recipients are subject to these limits, co-payments, and non-covered services. This rule also describes the service limit override process (the process by which services which exceed service limits can be requested and are authorized by the Department).**

**This proposal readopts with amendment sections He-W 530.02, 530.03, and 530.06. Portions of He-W 530.02 and 530.03, and all of He-W 530.06, are due to expire on June 30, 2015, subject to extension pursuant to RSA 541-A:14-a.**

**Only minor changes to the rules are being proposed in order to update terminology and make the language consistent with other Medicaid service rules. No changes in Medicaid policy are being proposed.**

6. (b) Brief description of the groups affected:

**The proposal affects NH Medicaid recipients and providers of NH Medicaid services.**

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

<u>Rule</u>	<u>Federal Reg./RSA</u>
He-W 530.02	42 USC 1396o; 42 CFR 447.53
He-W 530.03	RSA 167:3-h, IV; 42 CFR 440.230(d); 42 CFR 447.53-55; RSA 326-B:2, I; RSA 326-B:11
He-W 530.06	42 CFR 447.15

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Michael Holt**

Title: **Rules Coordinator**

Address: **Dept. of Health and Human Services  
Administrative Rules Unit  
129 Pleasant St.  
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TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

**The proposed rules may be viewed and downloaded at:**

<http://www.dhhs.nh.gov/oos/aru/comment.htm>

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Tuesday, July 14, 2015**

☒ Fax

☒ E-mail

☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Tuesday, July 7, 2015 at 2:30 PM**

Place: **DHHS Brown Bldg., Auditorium, 129 Pleasant St., Concord, NH**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # **15:097**, dated **06/04/15**

**1. Comparison of the costs of the proposed rule(s) to the existing rule(s):**

There is no difference in cost when comparing the proposed rules to the existing rules.

**2. Cite the Federal mandate. Identify the impact of state funds:**

No federal mandate, no impact on state funds.

**3. Cost and benefits of the proposed rule(s):**

**A. To State general or State special funds:**

None.

**B. To State citizens and political subdivisions:**

None.

**C. To Independently owned businesses:**

None.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

**The proposed rules modify an existing program or responsibility, but do not mandate any fees, duties or expenditures on the political subdivisions of the state, and therefore do not violate Part I, Article 28-a of the N.H. Constitution.**

## CHAPTER He-W 500 MEDICAL ASSISTANCE

### PART He-W 530 SERVICE LIMITS, CO-PAYMENTS, AND NON-COVERED SERVICES

**Readopt with amendment He-W 530.02, effective 6/30/2007 (Document #8929), as amended effective 11/1/11 (Document #10016), and as amended effective 11/18/14 (Document #10716), to read as follows:**

#### He-W 530.02 Recipients Subject to Service Limits, Co-Payments, and Non-Covered Services.

- (a) All recipients shall be subject to service limits in accordance with He-W 530.03.
- (b) All recipients shall be subject to the co-payments specified in He-W 530.04, except for:

- (1) Recipients with income below 100% of the federal poverty level (FPL);
- (2) Recipients residing in a nursing facility;
- (3) Recipients participating in the home and community based care (HCBC) waiver programs;
- (4) Recipients receiving services that relate to pregnancy, in accordance with 42 CFR 447.53(b)(2), or any other medical condition that might complicate the pregnancy; and
- (5) Recipients under the age of 18.

- (c) All recipients shall be subject to non-covered services provisions in accordance with He-W 530.05.

**Readopt with amendment He-W 530.03, effective 6/30/2007 (Document #8929), as amended effective 9/21/07 (Document # 8983), as amended effective 3/12/08 (Document #9103), as amended effective 1/17/09 (Document #9366) as amended effective 1/1/10 (Document #9622), as amended effective 6/25/10 (Document #9736), as amended effective 11/1/11 (Document #10017) as amended effective 3/1/2012 (Document #10090), as amended effective 9/28/13 (Document #10427), and as amended effective 8/15/14 (Document #10657), to read as follows:**

He-W 530.03 Service Limits. The following service limits shall apply to each recipient who is subject to service limits, per state fiscal year, with exceptions noted:

- (a) The hearing aid evaluation or a hearing aid consultation shall be limited to one service every 2 years since the last date of service;

- (b) Hospital services shall be limited as follows:

- (1) Outpatient hospital services shall be limited to 12 visits per state fiscal year;
- (2) Services provided in an emergency department (ED) or an urgent care setting shall not be considered outpatient hospital services, and shall not apply toward the limit established in (1) above;

(3) Physician services shall be unlimited except when associated with an outpatient hospital visit, in which case they shall be limited to 12 visits per state fiscal year; and

(4) Services that are described individually in component parts of this chapter, such as therapy services or radiology services, and that are associated with an outpatient hospital, ED or urgent care visit shall be subject to the service limits which apply to that individual service;

(c) Physician and advanced practice registered nurse (APRN) services performed in the inpatient hospital setting shall be limited to one visit per quality improvement organization (QIO) approved day of stay.

(d) Podiatry services shall be limited to 4 visits;

~~(e) RESERVED~~

~~(f)~~(e) Therapy services, including physical, occupational and speech therapy, shall be limited to 80, 15-minute units per recipient. The 80 units may be used for one type of therapy or for any combination of therapies;

~~(g)~~(f) Vision care services shall be limited as follows:

(1) One refraction to determine the need for glasses, no more frequently than every 12 months;

(2) Replacement of lenses or at the discretion of the recipient, lenses and frames, when the refractive error changes .50 diopter or more in both eyes;

(3) Replacement of nickel frames after 12 months, if the recipient has a documented allergy to nickel demonstrated by skin irritation and wearing down of the frame in the affected area; and

(4) One repair of glasses every 12 months, including replacement of the broken part(s) only;

~~(h)~~(g) Wheelchair van services shall be limited to 24 trips, either one-way or round trip;

~~(i)~~(h) X-ray services shall be limited as follows:

(1) X-ray services for diagnostic purposes shall be limited to 15 x-rays; and

(2) X-ray services provided for radiation therapy shall not be limited; and

~~(j)~~(i) If a recipient is covered by medicare ~~other insurance, including medicare,~~ and medicare that insurance pays at least half the medicaid Title XIX ~~program~~ rate for a covered service which is subject to limits, that service shall not be counted against such limits.

**Readopt with amendment He-W 530.06, effective 6/30/2007 (Document #8929), to read as follows:**

He-W 530.06 Recipient Responsibility for Payment.

(a) The recipient shall be responsible for payment of the entire cost of a service if:

- (1) The individual is not eligible for medicaid ~~the Title XIX program~~ on the date of service;
- (2) The service is not covered by medicaid ~~the Title XIX program~~;
- (3) The provider is not a NH enrolled medicaid ~~Title XIX~~ provider; or
- (4) The provider is no longer taking additional medicaid ~~Title XIX~~ recipients, but the recipient chooses to receive the service anyway as a private patient.

(b) The recipient shall be informed of these provisions verbally at the initial determination of eligibility and at each redetermination of eligibility by the department's ~~division of family assistance~~.

#### APPENDIX B

RULE	STATE OR FEDERAL STATUTE THE RULE IMPLEMENTS
He-W 530.02	42 USC 1396o; 42 CFR 447.53
He-W 530.03	RSA 167:3-h, IV; 42 CFR 440.230(d); 42 CFR 447.53-55; RSA 326-B:2, I; RSA 326-B:11
He-W 530.06	42 CFR 447.15